

Application No.: 10/607,705

Docket No.: 20022/38497A

REMARKS

By way of an office action dated December 28, 2004, claims 26, 28, and 33-39 stand finally rejected. For the following reasons, the finality of the office action is improper, and the applicants request the finality to be withdrawn.

In the first office action, dated July 27, 2004, independent claim 26 was rejected over certain patent references, and dependent claim 27 was objected to but would have been allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In a response dated October 5, 2004, claim 27 was deleted and the subject matter of claim 27 was incorporated into claim 26. Claim 26 is now under final rejection over newly cited references.

Under MPEP §706.07(a), the second office action cannot be made final when the office action includes a new ground of rejection to a claim previously examined. Here, the subject matter of originally filed claim 27 was indicated to be patentable in the first office action, then rejected in a second office action. Thus, this is a new rejection to the subject matter of originally filed claim 27, and the finality of the office action must be withdrawn.

If the examiner has any questions, he is invited to contact the undersigned.

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Respectfully submitted,

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